

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

GERRY JOHNS,

Petitioner,

v.

W.L. MONTGOMERY, Warden,

Respondent.

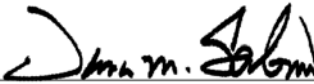
CASE NO. 15cv1556 DMS (NLS)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION AND
(2) GRANTING MOTION TO
DISMISS**

On July 9, 2015, Petitioner Gerry Johns (“Petitioner”), a state prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254. On October 5, 2015, Respondent filed a motion to dismiss the petition on the grounds it is a second or successive petition and also untimely. On March 16, 2016, Magistrate Judge Nita L. Stormes issued a Report and Recommendation (“R&R”), recommending that the Court grant Respondent’s motion to dismiss. Petitioner filed objections to the R&R on March 29, 2016.

This Court, having reviewed *de novo* the Magistrate Judge’s R&R and Petitioner’s objections thereto adopts the R&R in its entirety. Respondent’s motion to dismiss is granted. The Court finds no basis for a certificate of appealability. The Clerk of Court shall enter judgment accordingly, and terminate this case.

DATED: August 30, 2016



HON. DANA M. SABRAW
United States District Judge